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9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA
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12 NEVADA CONTROLS, LLC, a Nevada) 3:12-cv-00068-HDM-VPC
13 Limited Liability Company,)
14 Plaintiff,)
15 vs.) ORDER
16 WIND PUMP POWER, LLC, a Kansas)
17 Limited Liability Company,)
18 SUNFLOWER WIND, LLC, a Kansas)
19 Limited Liability Company, DAN
20 RASURE, an individual,
21 Defendants.
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23 Before this court is the plaintiff's motion for attorney's
24 fees and costs, Mot. Att'y Fees, ECF No. 47, pursuant to the
25 court's minute order of November 14, 2012. ECF No. 43. Plaintiff
26 filed the motion on November 29, 2012 and the defendants have not
27 responded to the motion.

28 On June 14, 2012 the magistrate judge ordered defendants to
obtain counsel by July 5, 2012. ECF No. 27. The defendants failed
to follow the order. Thus, the plaintiff filed a motion to strike
and request for entry of default judgment. Mot. Strike, ECF No. 28.

1 After several continuances, the hearing was held on November 14,
2 2012.

3 At the hearing, defendants' counsel was present and confirmed
4 he would appear on behalf of the defendants for all matters in this
5 action. ECF No. 43. Therefore, the motion to strike was denied, but
6 the court granted leave for the plaintiffs to file an application
7 for fees and costs associated with this matter.

8 The plaintiff filed the motion for attorney's fees and the
9 defendants did not respond. Pursuant to Local Rule 7-2(d), "The
10 failure of an opposing party to file points and authorities in
11 response to any motion shall constitute a consent to the granting
12 of the motion." Since the defendants failed to respond, they are
13 deemed to have consented to the plaintiff's motion and the court
14 may award the plaintiffs reasonable attorneys fees and costs.

15 It is within the court's discretion to determine the
16 reasonableness of the fees requested. *See Gates v. Deukmenjian*, 987
17 F.2d 1392, 1399(9th Cir. 1992). However, the court "is required to
18 articulate...the reasons for its findings regarding the propriety
19 of the hours claimed or for any adjustments it makes." *Id.*

20 The starting point for determining the reasonableness of the
21 attorney's fees is the calculation of the "lodestar." *Caudle v.*
22 *Bristow Optical Co., Inc.*, 224 F.3d 1014 (2000). In order to
23 calculate the lodestar, the court must "mulitpl[y] the number of
24 hours the prevailing party reasonably expended on the litigation by
25 a reasonable hourly rate." *Id.* at 1028.

26 After calculating the lodestar figure the court may "assess
27 whether it is necessary to adjust the presumptively reasonable
28 lodestar figure on the basis of the *Kerr* factors." *Morales v. City*

1 of *San Rafael*, 96 F.3d 359, 363 (9th Cir. 1996) (citing *Kerr v.*
2 *Screen Guild Extras, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975)). The
3 factors the court may consider include:

4 1) the time and labor required, 2) the novelty and
5 difficulty of the questions involved, 3) the skill
6 requisite to perform the legal service properly, 4) the
7 preclusion of other employment by the attorney due to
8 acceptance of the case, 5) the customary fee, 6) whether
9 the fee is fixed or contingent, 7) time limitations
10 imposed by the client or the circumstances, 8) the amount
11 involved and results obtained, 9) the experience,
12 reputation, and ability of the attorney, 10) the
13 undesirability of the case, 11) the nature and length of
14 the professional relationship with the client, and 12)
15 awards in similar cases.

16 *Morales*, 96 F.3d at 364 n.8 (citing *Kerr*, 526 F.2d at 70). However,
17 "[t]here is a strong presumption the lodestar figure represents a
18 reasonable fee. Only in rare instances should the lodestar figure
19 be adjusted on the basis of other considerations." *Id.*

20 In the case at bar, plaintiffs claim attorney's fees for two
21 attorneys - Leigh Goddard and Jessica Woelfel. According to the
22 evidence filed by the plaintiff, Ms. Goddard spent a total of 2.75
23 hours working on the motion to strike. Her hourly rate is \$350 per
24 hour. The hours Ms. Goddard spent on the motion multiplied by her
25 hourly rate result in a fee of \$962.50. Ms. Woelfel spent a total
26 of 3.75 hours working on the motion to strike. Her hourly rate is
27 \$275. The hours Ms. Woelfel spent on the motion multiplied by her
28 hourly rate result in a fee of \$1,031. The combined fees of the two
lawyers results in a lodestar of \$1,993.75.

The lodestar in this case is reasonable and it is not
necessary for the court to make an adjustment. The attorney's fees
requested by the plaintiff reflect an hourly rate that is
consistent with local rates. They also properly reflect the number

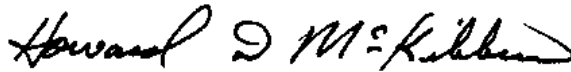
1 of hours reasonably related to the work necessary to adequately
2 respond to defendant's noncompliance.

3 Additionally, the plaintiffs incurred \$92.46 in costs
4 associated with photocopies and Westlaw research fees. The Ninth
5 Circuit has held that reasonable attorney's fees "include certain
6 litigation expenses" including non-taxable costs such as
7 photocopies and legal research. *Grove v. Wells Fargo Financial*
8 *California, Inc.*, 606 F.3d 577, 580 (9th Cir. 2010). Therefore, it
9 is within the district court's discretion to include these costs in
10 its award.

11 Accordingly, the plaintiff's motion for attorney's fees is
12 **GRANTED** in the amount of \$2,086.21.

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14 **IT IS SO ORDERED.**

15 DATED: This 24th day of July, 2013.

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19 UNITED STATES DISTRICT JUDGE
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